

JOHN McINTIRE AND OTHERS.

FEBRUARY 29, 1840.

Laid on the table.

Mr. GIDDINGS, from the Committee of Claims, made the following

REPORT :

*The Committee of Claims, to whom was referred the petition of John McIntire and others, report :*

That on the 1st day of April, 1816, the petitioners entered into a contract with the United States to perform the mason-work contemplated to be performed in repairing Fort Niagara, to commence on the 15th of May then next following the date of said contract.

It was stipulated, by the seventh article of the contract, that the United States should at all times have the privilege of terminating said contract by giving one month's notice of such intention.

The claimants were to furnish, during the working season of each year, not less than twenty masons, with a suitable number of laborers to attend them. The United States agreed to make the proper excavations, and to furnish the stone and other materials for said mason-work as the same should be wanted. It was also expressly stipulated that, in case the United States failed in making the necessary excavations, or in furnishing the proper materials as the same should be wanted, they should, for each and every day that the said claimants and their workmen should be detained, pay to each of the claimants two dollars and fifty cents per day, and for each of the mechanics the sum of one dollar and seventy-five cents per day. Upon this contract the claimants and their workmen were employed, during the seasons of 1816, 1817, and 1818; but they allege that during 1816 and 1817 the Government failed to make the necessary excavations, by which they were unable to proceed with the mason-work as they expected at the time of making said contract; consequently, they were deprived of the profits which would have resulted from its more speedy execution. They also allege that the contract was terminated in 1818, much sooner than was expected at the time of its execution. On these two points the petitioners claim compensation for their loss. The claim was committed to the Committee of Claims, in the House of Representatives, at the 2d session of the 23d Congress, and reported upon adversely, so far as regards the second point above mentioned. (Vide manuscript reports, volume 10, page 227, of said Committee of Claims).

Blair & Rives, printers.

The committee have reviewed that decision, and find no cause for departing from the conclusions then arrived at, as regards said second point. As to the first point on which indemnity is claimed, the aforesaid committee reported that the claimants were entitled to compensation; but, for want of definite proof, were unable to decide the precise amount.

Since the former report, the claimants have furnished the depositions of Zebulon Warner and Robert McBeath, which are attached to and made part of this report.

Without expressing any opinion upon the principles involved in the first point abovementioned, the committee are of opinion that, from the vague character of the testimony now before them, no precise amount of indemnity can be awarded; and they therefore recommend to the House, for adoption, the following resolution:

*Resolved*, That the claim be not allowed.

*Articles of agreement made and concluded this first day of April, in the year of our Lord one thousand eight hundred and sixteen, by and between the United States of America, by their agent, John Lind Smith, lieutenant in the corps of United States engineers, of the one part, and Lemuel Wilcox, John McIntyre, and James Stewart, of the county of Montgomery, in the State of New York, stone-masons, of the other part, as followeth:*

*Article 1.* It is hereby agreed, by and between the parties aforesaid, that the said Lemuel Wilcox, John McIntyre, and James Stewart, for and in consideration of the sum of one dollar lawful money of the United States of America, to be paid unto them for each and every perch of stone masonry that they shall or may build, or cause to be built, by virtue of this agreement, do hereby covenant and agree to build, or cause to be built, the whole of the stone masonry that shall or may be required for the repair of Fort Niagara, in the county of Niagara, and State aforesaid.

*Article 2.* It is further agreed, by and between the parties aforesaid, that the walls in which shall be used the stone-masonry referred to in the first article of this agreement, shall be built under the direction, and in conformity to, the plans of the aforesaid John Lind Smith, or such other engineer as shall or may be the representative of the United States of America aforesaid, or such other person as shall or may represent the engineer, for the time being; and they, the said walls of stone-masonry aforesaid, shall be built of stone in the state in which it is taken from the quarry, which shall be dressed and fitted together in all parts of the walls with as much exactness as is observed in the building of abutments and piers of bridges or other work, where great strength is required, so that the said John Lind Smith, or such other person as shall represent the United States of America aforesaid, for the time being, shall be satisfied therewith. And should cut stones be occasionally required for the facing of the embrasures, the cordon, or other parts of the walls of stone-masonry aforesaid, the same shall be furnished ready shaped for the purpose by the United States of America aforesaid. The above, however, will not be considered to apply to arches, the building of which is not embraced in this agreement.

*Article 3.* It is further agreed, by and between the parties aforesaid, that the United States of America aforesaid, shall furnish all materials, and shall deposite the stone and sand as near the spot where they will be used as will be practicable by water conveyance, and shall deposite the lime in bins, in a central part of Fort Niagara aforesaid. They, the aforesaid United States of America, shall likewise furnish materials for the construction of scaffolds and mortar-floors, and, also, the wood and iron for such labor saving machinery as, in the opinion of the engineer of Fort Niagara aforesaid, for the time being, may be requisite to facilitate the progress of the work; all of which shall be constructed by the aforesaid Lemuel Wilcox, John McIntyre, and James Stewart, and be considered the property of the United States of America aforesaid; but such machinery as they shall build of materials furnished by themselves shall be considered their own property.

*Article 4.* It is further agreed, by and between the parties aforesaid, that, on or before the fifteenth day of May ensuing, the aforesaid United States of America, by excavating the earth and removing it, together with such buildings and other obstacles as may intervene, shall prepare the ground that will be occupied by the foundations of the walls of stone masonry aforesaid, so that they may be commenced at that time; and should the aforesaid United States of America fail to have executed, within the time stipulated, the preparations abovestated, and the workmen of the said Lemuel Wilcox, John McIntyre, and James Stewart, in consequence thereof, be without employment, the aforesaid United States of America, for each and every day of delay occasioned by said failure, on their part, shall allow to the aforesaid Lemuel Wilcox, John McIntyre, and James Stewart, the sums of two dollars and fifty cents for each one of themselves, one dollar and seventy-five cents for each and every mechanic, and seventy-five cents for each and every laborer that shall or may be present and unemployed, and the same allowance shall be made in all cases of delay occasioned by a failure on the part of the United States of America aforesaid, in all which cases the mechanics and laborers aforesaid, shall be at the disposal of the United States of America aforesaid, to be employed by them at their discretion.

*Article 5.* It is further agreed, by and between the parties aforesaid, that the aforesaid Lemuel Wilcox, John McIntyre, and James Stewart, during the ensuing season commencing the fifteenth day of May next, and terminating the thirtieth day of September following, shall keep constantly employed, at Fort Niagara aforesaid, at least twenty masons, with a suitable number of laborers; and, during the following season, commencing the first day of May and terminating the thirtieth day of September, in the year of our Lord one thousand eight hundred and seventeen, they shall keep constantly employed such force as shall be required by the United States of America aforesaid, provided it do not exceed one hundred masons, with a suitable number of laborers; and, provided they shall be notified of the number that will be required of them on or before the first day of March in that year; and the above stipulated quantity of workmen to be employed by them during the year of our Lord one thousand eight hundred and seventeen, together with the provisions annexed thereto, shall apply to each succeeding year until this agreement shall be terminated. But, so far as relates to the commencement and termination of the seasons, may be so altered by the engineer, for the time being, as to anticipate their commencement or prolong their duration to the extent of fifteen days in each case, whenever the state of the weather will, in his judgment, authorize it.

*Article 6.* It is further agreed by and between the parties aforesaid, that the aforesaid Lemuel Wilcox, John McIntyre, and James Stewart, shall furnish and keep in order, at their own expense, all tools and implements, together with ropes and blocks that they may require. They shall, also, subsist themselves and their workmen at their own expense, but the United States of America aforesaid, shall furnish quarters for their lodging.

*Article 7.* It is further agreed, by and between the parties aforesaid, that the United States of America aforesaid, by their agent, John Lind Smith, aforesaid, or such other agent as shall represent them, shall have the privilege of terminating this agreement, provided they give one month's notice to that effect, to the aforesaid Lemuel Wilcox, John McIntire, and James Stewart.

*Article 8.* It is further agreed, by and between the parties aforesaid, that, upon the signing and delivery of these presents, the United States of America aforesaid, shall pay unto the aforesaid Lemuel Wilcox, John McIntire, and James Stewart, on account of work to be performed by them upon this agreement, the sum of six hundred dollars; and fifteen days after the work shall have been commenced with the force stipulated in the fifth article of this agreement, the aforesaid United States of America shall pay them a further sum of four hundred dollars, and at the expiration of each and every month thereafter, during the season of the present year, and at the expiration of each and every month of the seasons of the following years, the aforesaid United States of America shall pay unto them three-fourths of the sum that shall or may be due for work performed by them previous to each and every of those periods of time aforesaid; and should the aforesaid United States of America fail to make any of the payments aforesaid, at the times herein before stipulated, they shall indemnify the aforesaid Lemuel Wilcox, John McIntire, and James Stewart, for the injury that will thereupon accrue to them, by an allowance at the rate of one per centum upon the amount due, for each and every month that shall elapse, until it shall be paid.

And for the due fulfilment of the several articles of agreement herein before contained, Archibald McIntire, Archibald Campbell, and Robert Cameron, of the city and county of Albany, and State aforesaid, do, with the aforesaid Lemuel Wilcox, John McIntire, and James Stewart, jointly and severally, bind themselves, their heirs, executors, administrators, and assigns, under the penalty of paying to the aforesaid United States of America, in case the aforesaid Lemuel Wilcox, John McIntire, and James Stewart, shall fail to perform their part of the several articles of this agreement, the sum of ten thousand dollars; and the United States of America aforesaid, by their agent, John Lind Smith aforesaid, are in like manner bound for the due performance of their part of the several articles of this agreement.

The following interlineations were made before the signing and delivery of these presents, to wit: in the first line of the first article, the words "and between;" in the ninth and eighteenth lines of the second article, the word "stone;" in the fifteenth line of the second article, the word "aforesaid;" in the fifth line of the seventh article, the words "this agreement."

Another interlineation not noticed above, was made before the signing and sealing and delivery of these presents, between the third and fourth lines of the penalty; the words were "in the city and county of Albany and State aforesaid."



In testimony whereof, we have hereunto interchangeably set our hands and seals the day, month, and year, aforesaid.

J. L. SMITH, [ L. S. ]

*Lieut. corps of Engineers.*

LEMUEL WILCOX, [ L. S. ]

JOHN MCINTYRE, [ L. S. ]

JAMES STEWART, [ L. S. ]

ARCHIBALD MCINTYRE, [ L. S. ]

ARCHIBALD CAMPBELL, [ L. S. ]

ROBERT' CAMERON, [ L. S. ]

Signed sealed and delivered in presence of

JOHN ELY, Jr.

— — — — —  
FORT NIAGARA, October 26, 1818.

The articles of this contract having been fulfilled by each party concerned, is this day mutually cancelled.

WILLIAM H. CHASE,

*Lt. Engineers and Agent for U. S.*

WILCOX, MCINTYRE, & Co.

STATE OF NEW YORK, } ss.  
Erie county,

Ephraim F. Gilbert, of the city of Buffalo, in the county and State aforesaid, being duly sworn, deposes and says, that, in the month of January, in the year 1816, a contract was made and entered into by and between this deponent, and the Government of the United States, for the delivery of stone for building Fort Niagara; and that, during the years 1816, 1817, and 1818, this deponent was the most of the time engaged in prosecuting his said contract by delivering the stone near the site of the fort.

This deponent further says, that, in the spring of the year 1816, he became acquainted with Messrs. Stewart, McIntyre, & Wilcox, at fort Niagara; that they jointly had made and entered into a contract with the General Government, as this deponent understood at the time, to do the mason-work in and about building the said fort; and that the said contract was made in or about the month of January aforesaid, in the year 1816; that Messrs. Wilcox, Stewart, & McIntyre, arrived at Fort Niagara, early in the spring of that year, with a number of masons prepared to proceed immediately to the execution of the work; but the precise number of men in their employ this deponent does not recollect, and cannot tell.

This deponent further says, that, according to the best of his recollection and belief, in consequence of the heavy excavations that were made in the spring and summer of the year 1816 by the Government, and which were made before the Messrs. Wilcox, Stewart, & McIntyre, could commence their work, and of the continual inclemency of the weather during the season of that year, *they were prevented from buying any stone until late in the fall*, when a few stone only were laid.

This deponent further says, that, in the year 1817, according to the best of his recollection and belief, Messrs. Wilcox, Stewart, & McIntyre, were put to great inconvenience and expense in consequence of not being fur-

nished by the Government with large or dressed stone for the foundation of the wall ; but the amount of the losses sustained from this circumstance this deponent is now unable correctly to estimate.

This deponent further says, that, in the years 1816 and 1817, the price of all kinds of *provisions* was uncommonly high. From memoranda made at the time, and from the fact that this deponent has sustained heavy losses by occasion of the same circumstances, this deponent is enabled to recollect distinctly that the average price

For pork, by the barrel, was - - - -	\$31 00
For flour, by the barrel, was - - - -	11 50
For whiskey, per gallon, was - - - -	87½
For potatoes, per bushel, was - - - -	1 50
For white beans, per bushel - - - -	5 00

The average price for common labor, during the years 1816 and 1817, was uncommonly high, being about \$20 per month ; and for the overseers, \$2 per day. In the year 1818, the prices of the same articles were considerably lower, and they were as follows :

For pork, by the barrel - - - -	\$16 00
For flour, by the barrel - - - -	5 00
For whiskey, by the gallon - - - -	50
For potatoes, by the bushel - - - -	50
For white beans, by the bushel - - - -	1 50

The price paid for common labor was also much diminished, being about \$14 per month, and \$1 50 per day for overseers.

This deponent further says, that, early in the year 1818, during the winter, as well this deponent, as Messrs. Wilcox, Stewart, & McIntyre, received letters from Captain Smith, then the engineer residing at Washington city, directing them to be doubly prepared, for the coming season, for carrying on the works, as the Government were determined to prosecute the works at that place ; that, in consequence of receiving these letters, this deponent and James Stewart, a member of the firm of Wilcox, Stewart, & McIntyre, went through the adjoining counties, and made large purchases of provisions, of pork, flour, and whiskey, at the prices above-mentioned, for the year 1818 ; that the provisions, which were purchased by Messrs. Wilcox, Stewart, & McIntyre, were delivered at Fort Niagara, in the said winter, in the year 1818. The precise amount paid for these provisions this deponent cannot recollect.

And this deponent further says, that, about the 1st of June, 1818, Captain Smith, the engineer aforesaid, arrived from Washington city, and informed him that the Government had directed him to discontinue the works at Fort Niagara, except the building a sea-wall, so far as would be necessary to prevent the encroachments of the lake on the site of the fort.

And this deponent further says, that Messrs. Wilcox, Stewart, & McIntyre, were engaged during the remainder of the season in constructing that wall, but whether the same number of laborers were kept in employ after the arrival of Mr. Smith, as before that time, this deponent cannot say. And further, that, after the year 1818, no work was done on the fort by Messrs. Wilcox, Stewart, & McIntyre, as this deponent believes. And further this deponent says not.

EPHRAIM F. GILBERT.

Sworn and subscribed before me, this 14th day of November, A. D. 1834.

H. A. SALISBURY,  
Com. of Deeds for Erie county.

STATE OF NEW YORK, }  
*Erie county,* } ss.

I, Noah P. Sprague, clerk of said county, certify that Hezekiah A. Salisbury, Esq., whose name is subscribed to the above jurat of affidavit, was, at the time of taking said affidavit, a commissioner, &c., duly appointed, qualified, and authorized to take the same; and further, that I am well acquainted with the hand-writing of said commissioner, and verily believe the signature "H. A. Salisbury," above subscribed, to be genuine.

In testimony whereof, I have hereunto subscribed my name and affixed

[L. s.] the seal of said court, this 14th day of November, A. D. 1834.

NOAH P. SPRAGUE, *Clerk.*

STATE OF NEW YORK }  
*Montgomery county,* } ss.

Robert McBeath, being duly sworn before the undersigned, a justice of the peace, makes oath, and says: That he was at the Niagara fort at the several times hereinafter named, and was one of the masons in the employ of Messrs. Stewart, McIntyre, & Wilcox: That he commenced work for them in the month of May, 1817, and continued till November in the same year, in their employ: That he also commenced work for them in the year following in the month of May or June, and continued in their employ till November following. And this deponent further saith, that he believes that the masons employed by the abovenamed McIntyre, Stewart, & Wilcox, in the building of the fort at Niagara, at the time when he was there, would have laid five or six perches of stone per day, when in full employ, on an average.

ROBERT McBEATH.

Subscribed and sworn to, this 18th day of January, 1834, before me,

MARCELLUS WESTON,

*Justice of the Peace of the town of Broadalbin, in said county of  
 Montgomery.*

STATE OF NEW YORK, }  
*Montgomery county, Clerk's office,* } ss.

I, George D. Ferguson, clerk of the court of common pleas of Montgomery county, do hereby certify that Marcellus Weston, before whom the within affidavit purports to have been sworn, was, on the date thereof, a justice the peace in and for the said county; and that I am well acquainted with his handwriting, and verily believe that his name subscribed to the said affidavit is genuine.

[L. s.] In testimony whereof, I have hereunto set my hand and seal of office, this 21st day of November, 1834.

GEO. D. FERGUSON, *Clerk.*

FORT NIAGARA, *September 2, 1818.*

SIR: I had the honor to receive your letter of the 17th ultimo on the 1st instant. In answer to your inquiries, I have to state: That there are but two contracts existing relating to the works at this place, viz, the

contract of Wilcox, McIntyre, & Co., for the stone-masonry ; and one, made by myself with a Mr. Colt, for the supply of lime, which is about to be closed.

The contractors for the stone-masonry are the only persons, besides Captain Gilbert, who will sustain any loss by the reason of suspension of the works. Although the season has been very favorable to the stone-masonry contractors, I am perfectly satisfied their profits this year will not cover the losses sustained by them during the first two years of the contract—losses which were occasioned by the unavoidable delay of their branch of the work : but had the work continued, they would have completely covered their losses, and realized a part of the advantages which first induced them to engage in the contract. What the amount of the balance against them will be I am not at present possessed of sufficient information to say. I will only add that the activity and intelligence, together with a steady perseverance in the determination to fulfil every article of the contract, which have been displayed by the gentlemen engaged in it, entitle them to much credit ; and, should Captain Gilbert be allowed any thing for his losses, I would recommend those gentlemen as being equally deserving of the bounty of Government.

I have the honor to be, sir, very respectfully, your obedient servant,

WM. H. CHASE,

*Lieut. of Engineers.*

Brig. Gen. J. G. SWIFT,

*Chief Engineer, Washington city.*

STATE OF PENNSYLVANIA, }  
Clearfield county, } ss.

Zebulon Warner, of the county and State aforesaid, being duly sworn, deposes and says, that he was employed as accountant for Wilcox, McIntyre, & Stewart, contractors to do the mason-work in and about Fort Niagara ; and continued in their employ as such, from May, 1817, to the closing of their business at that place, in the fall of 1818 ; and from the best of his recollection and belief, says that, early in 1816, the aforesaid Wilcox, McIntire, & Stewart, entered into contract with the General Government by their engineer, John L. Smith, lieutenant of United States engineers, to do the mason-work in and about Fort Niagara, and were bound, as he understood, to be at the site of the said fort, with not less than twenty stone-layers or masons, and an equal number of tenders or common laborers, prepared to commence work some time in the month of May of the same year ; and were also required to keep an equal number of men and masons constantly in readiness, unless otherwise ordered by the engineer, having charge of the aforesaid work. And that the aforesaid Wilcox, McIntire, & Stewart, did arrive at Fort Niagara, as required by their contract, with men and masons prepared to execute the same, early in the spring or summer of 1816. That, during that season, on account of heavy excavations necessary to prepare for the laying of the foundations to be done on the part of the General Government, they were prevented from laying any stone until late in the fall, when but few stone were laid, and but a small amount of the site of the foundation was fitted by excavation until the following season.



And further this deponent says, that, in the month of May, 1817, the aforesaid contractors were again on the site of the said fort, with the requisite number of laborers and mechanics, and otherwise prepared to prosecute the work. During this season, on account of the unfinished state of excavation, and the want of large dressed stone, which were to have been delivered by the Government, to lay in the foundation of the foundations, they were again prevented from commencing work until some time late in the summer season.

And this deponent further says, that, during the two seasons of 1816 and 1817, provisions and labor were extremely high; and, from his best recollection, believes that flour was worth, per barrel, from \$10 to \$12; pork, from \$30 to \$33 per barrel; and that common labor, exclusive of board, was from \$18 to \$20 per month; and stone-layers or masons, including board, was from \$2 to \$2 50 per day. These laborers and masons were employed by the engineer at such times as the Government were not prepared to have the works prosecuted by the aforesaid contractors at a certain price stipulated in the contract, and which, he believes, was considerably less than they were obliged to pay, to keep the required number; but the exact difference he does at this time distinctly recollect, but believes the price allowed for the stone-masons was \$1 75 per day, leaving a loss of from 50 to 75 cents per day upon each mason; and that the loss upon common laborers was similar. But the exact amount sustained, in the years 1816 and 1817, this deponent does not recollect, and cannot tell.

This deponent further says, that, early in the following year, 1818, he was informed that instructions were received from Captain J. S. Smith, then at Washington city, to be prepared to commence early in the spring, and prosecute, vigorously, the works at that place; and that the Government was determined to complete the same. The winter was accordingly spent in procuring provisions and other materials necessary to enable them, the said contractors, to prosecute their part of the contract, and were delivered in large quantities at the fort.

Provisions and labor bore reduced prices, compared with former bills of purchase, and the contractors appeared sanguine in the belief, that they would eventually recover the losses occasioned by former delays. The work, for this season, was commenced early in the spring, with an increased number of men, under the expectation that the fortification of that point would be carried to completion.

In June following, according to the belief of this deponent, Captain Smith arrived from the city of Washington, and gave notice to the contracting party that his instructions were, to discontinue the works at that place, and directed the contractors to confine their work to the erection of the sea or wing walls, in order to secure the banks from the encroachment of the Lake Ontario; and the remaining part of the season was used up in building the said walls, and making repairs upon the mess-house and other public buildings within the garrison, leaving the contractors engaged in furnishing materials and completing the work in embarrassed circumstances, so much so, that they were reduced from apparent good circumstances to poverty.

And further this deponent would state, that many of the circumstances connected with these transactions have undoubtedly gone from his recollection during the space of seventeen years, in which time he has seen none of the parties concerned in that contract; and, consequently, has had but

few occasions to bring the subject into recollection. But, from the best recollection and knowledge of the business transactions of that time and place, he now believes that his statements are substantially correct and true; and further believes that, had the excavations been completed and the materials been furnished agreeably to the expectations of Wilcox, McIntire, & Stewart, and had the amount of work been done contemplated in the contract, that it would have been a profitable contract, judging from the amount of profit arising on the work done, and the energy and enterprise attending that prosecution of the work whenever opportunity presented. But, from losses sustained upon the workmen, upon provision and materials necessary to carry on the work, and consequent to being kept out of employment the greater part of the first two seasons, together with the sudden and unexpected abandonment of the undertaking, the losses to the contractors must have been very considerable; sufficiently so, to make all concerned poor. But at what amount the losses should be computed the deponent does not know, and cannot tell. And further this deponent saith not.

ZEBULON WARNER.

Sworn and subscribed this 3d day of February, 1836, before me, one of the justices of the peace, in and for the county of Clearfield.

SMITH MEAD.

CLEARFIELD COUNTY, ss.

I, Joseph Boone, prothonotary of the court of commons, in and for the county aforesaid, do hereby certify that Smith Mead, whose name is above subscribed, was at the time of so doing, and is now, a justice of the peace of said county; and that full faith and credit are given to his acts. In testimony whereof I have hereunto set my hand, and affixed the seal of [L. s.] said office, the 5th of February, 1836.

JOS. BOONE, *Prothonotary*.

STATE OF NEW YORK, }  
Schenectady county, } ss.

Came before me, Joshua D. Harman, a justice of the peace of Schenectady county, Robert McBeath, of the town of Mayfield, and being duly sworn, saith that he worked as a mason for McIntyre, Wilcox, & Stewart, on Fort Niagara, in the year 1817 and 1818, and to the best of his knowledge and belief, there were from eighteen to twenty laboring masons employed by said McIntyre, Wilcox, & Stewart, as contractors, during the said period of time, to wit: in the years 1817 and 1818, and further this deponent saith not.

ROBERT McBEATH.

Sworn and subscribed before me, this 29th day of August, 1838.

J. D. HARMAN,  
*Justice of the Peace*.

STATE OF NEW YORK, }  
Schenectady county, Clerk's office, } ss.

I, Wm. W. Tredway, deputy clerk of said county, do hereby certify, that J. D. Harman, before whom the annexed affidavit purports to have been

sworn, and whose name is thereon written, was, at the time of the date thereof, a justice of the peace, in and for said county, dwelling therein, commissioned, sworn, and duly authorized: and further, that I am well acquainted with the hand-writing of said J. D. Harman, and verily believe that the signature to the said certificate of proof is genuine.

In testimony whereof, I have set my hand, and affixed the seal of said county, [L. s.] the 29th day of August, 1838.

WM. W. TREDWAY,  
*Deputy Clerk.*

# TOWN OF LITCHFIELD, ss.

Junia Warner, of Winfield, in the county of Herkimer, being duly sworn before Amos Fowler, one of the justices of the peace of said town of Litchfield, makes oath and says, that this deponent was at Niagara, at the several times named, as follows, and was one of the masons who was in the employ of Messrs. Stewart, McIntyre, & Wilcox, commencing May, 1816, and continuing until December, the year aforesaid; and also in the year 1817, in the month of June, was employed by Messrs. McIntyre, Stewart, & Wilcox, to board their masons and tenders, till November the same year; also, in the year 1818, this deponent commenced again as a mason for Messrs. Stewart, McIntyre, & Wilcox, in the month of June, and continued till November, in the same year. And, furthermore, this deponent believes that the masons employed by the abovenamed McIntyre, Stewart, & Wilcox, in the building of the fort Niagara, at the time while he was there, would probably lay from five or six perches of stone per day, when in full employ; meaning on an average.

JUNIA WARNER.

Subscribed and sworn, October 21, 1833, before me.

AMOS FOWLER, *Justice.*

STATE OF NEW YORK, }  
Clerk's office, Herkimer county, } ss.

I, Julius C. Nelson, clerk of said county, do hereby certify, that Amos Fowler, Esq., whose name is subscribed to the above certificate, and before whom the above affidavit was taken, was, on the day of the date of said certificate, a justice of the peace, in and for said county, duly elected and qualified according to law; and, further, that I am well acquainted with the hand writing of the said justice, and verily believe that the signature of "Amos Fowler, *Justice*," subscribed to the same certificate, is genuine. In witness whereof, I have hereunto set my hand, and affixed the seal of [L. s.] the said county, this 28th day of October, 1833,

JULIUS C. NELSON, *Clerk.*

and whose name is herein written was at the time of the date thereof a justice of the peace in said county, dwelling therein, commissioned there, and duly authorized and further that I am well acquainted with the handwriting of said J. C. Fowler, and verily believe that the signature to the said certificate is genuine. In testimony whereof I have set my hand and affixed the seal of said county, [L. s.] the 28th day of August, 1833.

WM. W. FRIEDWAY,  
Deputy Clerk.

Town of Wrentham, in the county of Nantucket, being duly sworn before Amos Fowler, one of the justices of the peace of said town of Nantucket, makes oath and says, that this deponent was at Nantucket at the several times named as follows and was one of the masons who was in the employment of Messrs. Stewart, McIntyre & Wilcox, commencing May, 1816, and continuing until December, the year aforesaid; and also in the year 1817, in the month of June, was employed by Messrs. McIntyre, Stewart & Wilcox, to board their masons and tenders, till November the same year, also, in the year 1818, this deponent commenced again as a mason for Messrs. Stewart, McIntyre & Wilcox, in the month of June, and continued till November, in the same year. And furthermore, this deponent believes that the masons employed by the aforesaid McIntyre, Stewart & Wilcox, in the building of the fort Niagara, at the time while he was there, would probably lay from five or six perches of stone per day, when in full employ; meaning on an average.

JUNIA WARNER.

Subscribed and sworn, October 31, 1833, before me.  
AMOS FOWLER, Justice.

State of New York,  
County of Erie,

I, Julius C. Nelson, clerk of said county, do hereby certify, that Amos Fowler, Esq., whose name is subscribed to the above certificate, and bore witness to the above affidavit was taken, was on the day of the date of said certificate a justice of the peace in and for said county, duly elected and qualified according to law; and further, that I am well acquainted with the handwriting of the said justice, and verily believe that the signature of "Amos Fowler, Justice", subscribed to the said certificate, is genuine. In witness whereof I have hereunto set my hand, and affixed the seal of said county, this 28th day of October, 1833.

JULIUS C. NELSON, Clerk.